

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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SENATE BILL 38*
Agriculture/Environment/Natural Resources Committee Substitute Adopted 3/12/13
House Committee Substitute Favorable 6/18/14
Fourth Edition Engrossed 6/19/14

Short Title: Amend Environmental Laws 2014.

(Public)

Sponsors:

Referred to:

February 4, 2013

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND CERTAIN ENVIRONMENTAL AND NATURAL RESOURCES
3 LAWS.

4 The General Assembly of North Carolina enacts:

5
6 AMEND TRANSPLANTING OF OYSTERS AND CLAMS STATUTE

7 SECTION 1. G.S. 113-203 reads as rewritten:

8 "§ 113-203. Transplanting of oysters and clams.

9 (a) ~~It is unlawful to transplant oysters taken from public grounds to private beds except:~~

10 (1) ~~When lawfully taken during open season and transported directly to a private~~
11 ~~bed in accordance with rules of the Marine Fisheries Commission.~~

12 (2) Repealed by Session Laws 2009-433, s. 6, effective August 7, 2009.

13 (3) ~~When the transplanting is done in accordance with the provisions of this~~
14 ~~section and implementing rules.~~

15 (a1) ~~It is lawful to transplant seed clams less than 12 millimeters in their largest~~
16 ~~dimension and seed oysters less than 25 millimeters in their largest dimension and when the~~
17 ~~seed clams and seed oysters originate from an aquaculture operation permitted by the Secretary.~~

18 (a2) It is unlawful to do any of the following:

19 (1) Transplant oysters or clams taken from public grounds to private beds except
20 when lawfully taken during open season and transported directly to a private
21 bed in accordance with rules of the Marine Fisheries Commission.

22 (2) Transplant oysters or clams taken from permitted aquaculture operations to
23 private beds except from waters in the approved classification.

24 (3) Transplant oysters or clams from public grounds or permitted aquaculture
25 operations utilizing waters in the restricted or conditionally approved
26 classification to private beds except when the transplanting is done in
27 accordance with the provisions of this section and implementing rules.

28 (a3) It is lawful to transplant seed oysters or seed clams taken from permitted
29 aquaculture operations that use waters in the restricted or conditionally approved classification
30 to private beds pursuant to an Aquaculture Seed Transplant Permit issued by the Secretary that
31 sets times during which transplant is permissible and other reasonable restrictions imposed by
32 the Secretary under either of the following circumstances:

33 (1) When transplanting seed clams less than 12 millimeters in their largest
34 dimension.



1 (2) When transplanting seed oysters less than 25 millimeters in their largest
2 dimension.

3 (a4) It is unlawful to conduct a seed transplanting operation pursuant to subsection (a3)
4 of this section if the seed transplanting operation is not conducted in compliance with its
5 Aquaculture Seed Transplant Permit.

6 (b) It is lawful to transplant from public bottoms to private beds oysters or clams taken
7 from ~~polluted~~ waters in the restricted or conditionally approved classifications with a permit
8 from the Secretary setting out the waters from which the oysters or clams may be taken, the
9 quantities which may be taken, the times during which the taking is permissible, and other
10 reasonable restrictions imposed by the Secretary for the regulation of transplanting operations.
11 Any transplanting operation which does not substantially comply with the restrictions of the
12 permit issued is unlawful.

13 (c) Repealed by Session Laws 2009-433, s. 6, effective August 7, 2009.

14 (d) It is lawful to transplant to private beds in North Carolina oysters taken from natural
15 or managed public beds designated by the Marine Fisheries Commission as seed oyster
16 management areas. The Secretary shall issue permits to all qualified individuals who are
17 residents of North Carolina without regard to county of residence to transplant seed oysters
18 from said designated seed oyster management areas, setting out the quantity which may be
19 taken, the times which the taking is permissible and other reasonable restrictions imposed to aid
20 the Secretary in the Secretary's duty of regulating such transplanting operations. Persons taking
21 such seed oysters may, in the discretion of the Marine Fisheries Commission, be required to
22 pay to the Department for oysters taken an amount to reimburse the Department in full or in
23 part for the costs of seed oyster management operations. Any transplanting operation which
24 does not substantially comply with the restrictions of the permit issued is unlawful.

25 (e) The Marine Fisheries Commission may implement the provisions of this section by
26 rules governing sale, possession, transportation, storage, handling, planting, and harvesting of
27 oysters and clams and setting out any system of marking oysters and clams or of permits or
28 receipts relating to them generally, from both public and private beds, as necessary to regulate
29 the lawful transplanting of seed oysters and oysters or clams taken from or placed on public or
30 private beds.

31 (f) The Commission may establish a fee for each permit established pursuant to this
32 subsection in an amount that compensates the Division for the administrative costs associated
33 with the permit but that does not exceed one hundred dollars (\$100.00) per permit.

34 (g) Advance Sale of Permits; Permit Revenue. – To ensure an orderly transition from
35 one permit year to the next, the Division may issue a permit prior to July 1 of the permit year
36 for which the permit is valid. Revenue that the Division receives for the issuance of a permit
37 prior to the beginning of a permit year shall not revert at the end of the fiscal year in which the
38 revenue is received and shall be credited and available to the Division for the permit year in
39 which the permit is valid."
40

41 **EXEMPT CONSTRUCTION AND DEMOLITION LANDFILLS FROM THE**
42 **MINIMUM FINANCIAL RESPONSIBILITY REQUIREMENTS APPLICABLE TO**
43 **OTHER SOLID WASTE MANAGEMENT FACILITIES**

44 **SECTION 2.** G.S. 130A-295.2 reads as rewritten:

45 **"§ 130A-295.2. Financial responsibility requirements for applicants and permit holders**
46 **for solid waste management facilities.**

47 ...

48 (h) To meet the financial assurance requirements of this section, the owner or operator
49 of a sanitary ~~landfill~~ landfill, other than a sanitary landfill for the disposal of construction and
50 demolition debris waste, shall establish financial assurance sufficient to cover a minimum of
51 two million dollars (\$2,000,000) in costs for potential assessment and corrective action at the

1 facility. The Department may require financial assurance in a higher amount and may increase
2 the amount of financial assurance required of a permit holder at any time based upon the types
3 of waste disposed in the landfill, the projected amount of waste to be disposed in the landfill,
4 the location of the landfill, potential receptors of releases from the landfill, and inflation. The
5 financial assurance requirements of this subsection are in addition to the other financial
6 responsibility requirements set out in this section.

7 (h1) To meet the financial assurance requirements of this section, the owner or operator
8 of a sanitary landfill for the disposal of construction and demolition debris waste shall establish
9 financial assurance sufficient to cover a minimum of one million dollars (\$1,000,000) in costs
10 for potential assessment and corrective action at the facility. The financial assurance
11 requirements of this subsection are in addition to the other financial responsibility requirements
12 set out in this section.

13 ...

14 (j) In addition to the other methods by which financial assurance may be established as
15 set forth in subsection (f) of this section, the Department may allow the owner or operator of a
16 sanitary landfill permitted on or before August 1, 2009, to meet the financial assurance
17 requirement set forth in subsection (h) of this section by establishing a trust fund which
18 conforms to the following minimum requirements:

19 ...

20 (4) Payments into the fund shall be made in equal annual installments in
21 amounts calculated by dividing the current cost estimate for potential
22 assessment and corrective action at the facility, ~~which~~ which, for a sanitary
23 landfill, other than a sanitary landfill for the disposal of construction and
24 demolition debris waste, shall not be less than two million dollars
25 (\$2,000,000) in accordance with subsection (h) of this section, by the
26 number of years in the pay-in period.

27 (5) The trust fund may be terminated by the owner or operator only if the owner
28 or operator establishes financial assurance by another method or
29 combination of methods allowed under subsection (f) of this section.

30 (6) The trust agreement shall be accompanied by a formal certification of
31 acknowledgement."
32

33 ON-SITE WASTEWATER APPROVAL CLARIFICATION

34 **SECTION 3.(a)** G.S. 130A-343 is amended by adding a new subsection to read:

35 "**§ 130A-343. Approval of on-site subsurface wastewater systems.**

36 ...

37 (j1) Clarification With Respect to Certain Dispersal Media. – In considering the
38 application by a manufacturer of a wastewater system utilizing expanded polystyrene synthetic
39 aggregate particles as a septic effluent dispersal medium for approval of the system under this
40 section, neither the Commission nor the Department may condition, delay, or deny the approval
41 based on the particle or bulk density of the expanded polystyrene material. With respect to
42 approvals already issued by the Department or Commission that include conditions or
43 requirements related to the particle or bulk density of expanded polystyrene material, the
44 Commission or Department, as applicable, shall promptly reissue all such approvals with the
45 conditions and requirements relating to the density of expanded polystyrene material
46 permanently deleted while leaving all other terms and conditions of the approval intact.

47"

48 **SECTION 3.(b)** Until the reissuance of approvals by the Department of
49 Environment and Natural Resources or the Commission for Public Health as required by
50 Section 3(a) of this act, conditions or requirements in existing approvals relating to the particle
51 or bulk density of expanded polystyrene shall have no further force or effect.

EXPAND DAILY FLOW DESIGN EXEMPTION FOR LOW-FLOW FIXTURES

SECTION 4. Section 34(b) of S.L. 2013-413 reads as rewritten:

"SECTION 34.(b) Implementation. – Notwithstanding the Daily Flow for Design rates listed for dwelling units in 15A NCAC 18A .1949(a) or for other establishments in Table No. 1 of 15A NCAC 18A .1949(b) (Sewage Flow Rates for Design Units), a wastewater system shall be exempt from the Daily Flow for Design, and any other design flow standards that are established by the Department of Health and Human Services or the Commission for Public Health provided flow rates that are less than those listed in ~~Table No. 1 of 15A NCAC 18A .1949(b)~~ 15A NCAC 18A .1949 (Sewage Flow Rates for Design Units) can be achieved through engineering design that utilizes low-flow fixtures and low-flow technologies and the design is prepared, sealed, and signed by a professional engineer licensed pursuant to Chapter 89C of the General Statutes. The Department and Commission may ~~establish~~ establish, by rule, lower limits on reduced flow rates as necessary to ensure wastewater system integrity and protect public health, safety, and welfare, provided that the Commission relies on scientific evidence specific to soil types found in North Carolina that the lower limits are necessary for those soil types. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2). Proposed daily design flows for wastewater systems that are calculated to be less than 3,000 total gallons per day shall not require State review pursuant to 15A NCAC 18A .1938(e). Neither the State nor any local health department shall be liable for any damages caused by a system approved or permitted pursuant to this section."

REFORM AGENCY REVIEW OF ENGINEERING WORK

SECTION 6.(a) Definitions. – The following definitions apply to Section 6 of this act:

- (1) Practice of Engineering. – As defined in G.S. 89C-3.
- (2) Professional Engineer. – As defined in G.S. 89C-3.
- (3) Regulatory Authority. – The Department of Environment and Natural Resources, the Department of Health and Human Services, and any unit of local government operating a program (i) that grants permits, licenses, or approvals to the public and (ii) that is either approved by or delegated from the Department of Environment and Natural Resources or the Department of Health and Human Services.
- (4) Regulatory Submittal. – An application or other submittal to a Regulatory Authority for a permit, license, or approval. In the case of a unit of local government, Regulatory Submittal shall mean an application or submittal submitted to a program approved by or delegated from the Department of Environment and Natural Resources or the Department of Health and Human Services.
- (5) Submitting Party. – The person submitting the Regulatory Submittal to the Regulatory Authority.
- (6) Working Job Title. – The job title a Regulatory Authority uses to publicly identify an employee with job duties that include the review of Regulatory Submittals. Working Job Title does not mean job titles that are used by the human resources department of a Regulatory Authority to classify jobs containing technical aspects related to the Practice of Engineering.

SECTION 6.(b) Standardize Certain Regulatory Review Procedures. – No later than December 1, 2014, each Regulatory Authority shall review and, where necessary, revise its procedures for review of Regulatory Submittals to accomplish the following:

1 (1) Standardize the provision of review and comments on Regulatory Submittals
2 so that revisions or requests for additional information that are required by
3 the Regulatory Authority in order to proceed with the permit, license, or
4 approval are clearly delineated from revisions or requests for additional
5 information that constitute suggestions or recommendations by the
6 Regulatory Authority. For purposes of this subdivision, "suggestions or
7 recommendations by the Regulatory Authority" means comments made by
8 the reviewer of the Regulatory Submittal to the Submitting Party that make a
9 suggestion or recommendation for consideration by the Submitting Party but
10 that are not required by the Regulatory Authority in order to proceed with
11 the permit, license, or approval.

12 (2) With respect to revisions or requests for additional information that are
13 required by the Regulatory Authority in order to proceed with the permit,
14 license, or approval, the Regulatory Authority shall identify the statutory or
15 regulatory authority for the requirement.

16 **SECTION 6.(c)** Informal Review. – No later than December 1, 2014, each
17 Regulatory Authority shall create a process for each regulatory program administered by the
18 Regulatory Authority for an informal internal review at the request of the Submitting Party in
19 each of the following circumstances:

20 (1) The inclusion in a Regulatory Submittal of a design or practice sealed by a
21 Professional Engineer but not included in the Regulatory Authority's existing
22 guidance, manuals, or standard operating procedures. This review should
23 first be conducted by the reviewing employee's supervisor or, in the case of a
24 Regulatory Authority that is a unit of local government, either the reviewing
25 employee's supervisor or the delegating or approving State agency. If this
26 initial review was not conducted by a Professional Engineer, then the
27 Submitting Party may request review by (i) a Professional Engineer on the
28 staff of the Regulatory Authority or (ii) the delegating or approving State
29 agency in the case of a Regulatory Authority that is a unit of local
30 government. If the Regulatory Authority or delegating or approving State
31 agency does not employ a Professional Engineer qualified and competent to
32 perform the review, it may provide for review by a consulting Professional
33 Engineer selected from a list developed and maintained by the Regulatory
34 Authority. The Regulatory Authority may charge the Submitting Party for
35 the costs of the review by the consulting Professional Engineer. Nothing in
36 this subdivision is intended to limit the authority of the Regulatory Authority
37 to make a final decision with regard to a Regulatory Submittal following the
38 reviews described in this subdivision.

39 (2) A disagreement between the reviewer of the Regulatory Submittal and the
40 Submitting Party regarding whether the statutory or regulatory authority
41 identified by the Regulatory Authority for revisions or requests for
42 additional information designated as "required" under the procedures set
43 forth in Section 6(b) of this act justifies a required change.

44 **SECTION 6.(d)** Scope. – Nothing in Section 6(c) of this act shall limit or abrogate
45 any rights available under Chapter 150B of the General Statutes to any Submitting Party.

46 **SECTION 6.(e)** Procedure to Develop List of Consulting Professional Engineers. –
47 Regulatory Authorities shall develop formal written procedures to prepare and maintain a list of
48 consulting Professional Engineers required pursuant to subdivision (1) of Section 6(c) of this
49 act.

50 **SECTION 6.(f)** Pilot Study. – No later than March 1, 2015, the Department of
51 Environment and Natural Resources shall complete a pilot study on the Pretreatment,

1 Emergency Response and Collection System (PERCS) wastewater collection system permitting
2 program and the stormwater permitting program and perform the following activities with the
3 assistance and cooperation of the North Carolina Board of Examiners for Engineers and
4 Surveyors and the Professional Engineers of North Carolina:

- 5 (1) Produce an inventory of work activities associated with the operation of each
6 regulatory program.
- 7 (2) Determine the work activities identified under subdivision (1) of this
8 subsection that constitute the Practice of Engineering.
- 9 (3) Develop recommendations for ensuring that work activities constituting the
10 Practice of Engineering are conducted with the appropriate level of
11 oversight.

12 **SECTION 6.(g)** Report. – The Department shall report the results of the pilot study
13 to the Environmental Review Commission no later than April 15, 2015.

14 **SECTION 6.(h)** Review of Working Job Titles. – No later than December 1, 2014,
15 each Regulatory Authority and the Department of Transportation shall do the following:

- 16 (1) Review the Working Job Titles of every employee with job duties that
17 include the review of Regulatory Submittals.
- 18 (2) Propose revisions to the Working Job Titles identified under subdivision (1)
19 of this subsection or other administrative measures that will eliminate the
20 public identification as "engineers" of persons reviewing Regulatory
21 Submittals who are not Professional Engineers.

22 **SECTION 6.(i)** Initial Report. – Each Regulatory Authority shall report to the
23 Environmental Review Commission prior to the convening of the 2015 Regular Session of the
24 2015 General Assembly on implementation of the following, if applicable:

- 25 (1) The standardized procedures required by Section 6(b) of this act.
- 26 (2) The informal review process required by Section 6(c) of this act.
- 27 (3) The review of Working Job Titles required by Section 6(h) of this act.

28 **SECTION 6.(j)** Annual Report. – Beginning in 2016, each Regulatory Authority
29 shall annually report to the Environmental Review Commission no later than January 15 on the
30 informal review process required by Section 6(c) of this act. The report shall include the
31 number of times the informal review process was utilized and the outcome of the review.

32 **SECTION 6.(k)** Annual Reporting Sunset. – Section 6(j) of this act expires on
33 January 1, 2019.

34 35 **STUDY TEMPORARY GROUNDWATER WITHDRAWAL PERMITS WITHIN THE** 36 **CENTRAL COASTAL PLAIN CAPACITY USE AREA**

37 **SECTION 7.(a)** The Department of Environment and Natural Resources shall
38 study groundwater withdrawal permitting in the Central Coastal Plain Capacity Use Area
39 (CCPCUA), as designated by 15A NCAC 02E .0501. The study shall include:

- 40 (1) A study of the adequacy of the existing permitting program with respect to
41 protection of groundwater supplies within Cretaceous aquifer zones.
- 42 (2) A study of the impact of the issuance of temporary groundwater withdrawal
43 permits by the Division of Water Resources of the Department of
44 Environment and Natural Resources that considers the number of temporary
45 permits now in place, the number of pending temporary permit applications,
46 and the total amount of groundwater withdrawals from the Cretaceous
47 aquifer zones within the CCPCUA.
- 48 (3) A recommendation, supported by findings of fact, as to whether a limit on
49 the issuance of temporary groundwater withdrawal permits within the
50 CCPCUA is needed to prevent further Cretaceous aquifer depletion and
51 saltwater encroachment.

1 **SECTION 7.(b)** The Department may make an interim report prior to the
2 convening of the 2015 General Assembly and shall make its final report, including any
3 proposed legislation, to the 2015 General Assembly when it reconvenes in 2016.
4

5 **AMEND ISOLATED WETLANDS REGULATION**

6 **SECTION 8.(a)** Until the effective date of the revised permanent rule that the
7 Environmental Management Commission is required to adopt pursuant to Section 8(c) of this
8 act, the Commission and the Department of Environment and Natural Resources shall
9 implement 15A NCAC 02H .1305 (Review of Applications) as provided in Section 8(b) of this
10 act.

11 **SECTION 8.(b)** Notwithstanding 15A NCAC 02H .1305 (Review of
12 Applications), all of the following shall apply to the implementation of 15A NCAC 02H .1305:

- 13 (1) The amount of impacts of isolated wetlands under 15A NCAC 02H
14 .1305(d)(2) shall be less than or equal to one acre of isolated wetlands east
15 of I-95 for the entire project and less than or equal to 1/3 acre of isolated
16 wetlands west of I-95 for the entire project.
- 17 (2) The mitigation ratio for impacts of greater than 1 acre for the entire project
18 under 15A NCAC 02H .1305(g)(6) shall be 1:1 and may be located on the
19 same parcel.
- 20 (3) For purposes of Section 8(b) of this act, "isolated wetlands" means a Basin
21 Wetland or Bog as described in the North Carolina Wetland Assessment
22 User Manual prepared by the North Carolina Wetland Functional
23 Assessment Team, version 4.1 October, 2010, that are not jurisdictional
24 wetlands under the federal Clean Water Act. An "isolated wetland" does not
25 include an isolated man-made ditch or pond constructed for stormwater
26 management purposes or any other man-made isolated pond.

27 **SECTION 8.(c)** The Environmental Management Commission shall adopt rules to
28 amend 15A NCAC 02H .1300 through 15A NCAC 02H .1305 consistent with Section 8(b) of
29 this act. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to
30 Section 8(c) of this act shall be substantively identical to the provisions of Section 8(b) of this
31 act. Rules adopted pursuant to Section 8(c) of this act are not subject to Part 3 of Article 2A of
32 Chapter 150B of the General Statutes. Rules adopted pursuant to Section 8(c) of this act shall
33 become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections
34 had been received as provided by G.S. 150B-21.3(b2).

35 **SECTION 8.(d)** The Department of Environment and Natural Resources shall
36 study (i) how the term "isolated wetland" has been previously defined in State law and whether
37 the term should be clarified in order to provide greater certainty in identifying isolated
38 wetlands; (ii) the surface area thresholds for the regulation of mountain bog isolated wetlands,
39 including whether mountain bog isolated wetlands should have surface area regulatory
40 thresholds different from other types of isolated wetlands; and (iii) whether impacts to isolated
41 wetlands should be combined with the project impacts to jurisdictional wetlands or streams for
42 the purpose of determining when impact thresholds that trigger a mitigation requirement are
43 met. The Department shall report its findings and recommendations to the Environmental
44 Review Commission on or before November 1, 2014.

45 **SECTION 8.(e)** This section is effective when it becomes law. Section 8(b) of this
46 act expires on the date that rules adopted pursuant to Section 8(c) of this act become effective.
47

48 **SPEED LIMIT WAIVER IN STATE PARKS AND FORESTS**

49 **SECTION 9.(a)** G.S. 143-116.8 is amended by adding two new subsections to
50 read:

51 "**§ 143-116.8. Motor vehicle laws applicable to State parks and forests road system.**

1 (a) Except as otherwise provided in this section, all the provisions of Chapter 20 of the
2 General Statutes relating to the use of highways and public vehicular areas of the State and the
3 operation of vehicles thereon are made applicable to the State parks and forests road system.
4 For the purposes of this section, the term "State parks and forests road system" shall mean the
5 streets, alleys, roads, public vehicular areas and driveways of the State parks, State forests,
6 State recreation areas, State lakes, and all other lands administered by the Department of
7 Environment and Natural Resources or the Department of Agriculture and Consumer Services.
8 This term shall not be construed, however, to include streets that are a part of the State highway
9 system. Any person violating any of the provisions of Chapter 20 of the General Statutes
10 hereby made applicable in the State parks and forests road system shall, upon conviction, be
11 punished in accordance with Chapter 20 of the General Statutes. Nothing herein contained shall
12 be construed as in any way interfering with the ownership and control of the State parks road
13 system by the Department of Environment and Natural Resources and the forests road system
14 by the Department of Agriculture and Consumer Services.

15 (b) (1) It shall be unlawful for a person to operate a vehicle in the State parks road
16 system at a speed in excess of twenty-five miles per hour (25 mph). When
17 the Secretary of Environment and Natural Resources determines that this
18 speed is greater than reasonable and safe under the conditions found to exist
19 in the State parks road system, the Secretary may establish a lower
20 reasonable and safe speed limit. No speed limit established by the Secretary
21 pursuant to this provision shall be effective until posted in the part of the
22 system where the limit is intended to apply.

23 (1a) It shall be unlawful for a person to operate a vehicle in the State forests road
24 system at a speed in excess of 25 miles per hour. When the Commissioner of
25 Agriculture determines that this speed is greater than reasonable and safe
26 under the conditions found to exist in the State forests road system, the
27 Commissioner may establish a lower reasonable and safe speed limit. No
28 speed limit established by the Commissioner pursuant to this provision shall
29 be effective until posted in the part of the system where the limit is intended
30 to apply.

31 ...
32 (f) Notwithstanding any other provision of this section, a person may petition the
33 Department of Environment and Natural Resources for a waiver authorizing the person to
34 operate a vehicle in the State parks road system at a speed in excess of 25 miles per hour in
35 connection with a special event. The Secretary may impose any conditions on a waiver that the
36 Secretary determines to be necessary to protect public health, safety, welfare, and the natural
37 resources of the State park. These conditions shall include a requirement that the person
38 receiving the waiver execute an indemnification agreement with the Department and obtain
39 general liability insurance in an amount not to exceed three million dollars (\$3,000,000)
40 covering personal injury and property damage that may result from driving in excess of 25
41 miles per hour in the State parks road system subject to the conditions determined by the
42 Secretary.

43 (g) Notwithstanding any other provision of this section, a person may petition the
44 Department of Agriculture and Consumer Services for a waiver authorizing the person to
45 operate a vehicle in the State forests road system at a speed in excess of 25 miles per hour in
46 connection with a special event. The Commissioner may impose any conditions on a waiver
47 that the Commissioner determines to be necessary to protect public health, safety, welfare, and
48 the natural resources of the State forest. These conditions shall include a requirement that the
49 person receiving the waiver execute an indemnification agreement with the Department and
50 obtain general liability insurance in an amount not to exceed three million dollars (\$3,000,000)
51 covering personal injury and property damage that may result from driving in excess of 25

1 miles per hour in the State forests road system subject to the conditions determined by the
2 Commissioner."

3 **SECTION 9.(b)** The Department of Environment and Natural Resources and the
4 Department of Agriculture and Consumer Services shall amend their rules to be consistent with
5 Section 9(a) of this act.

7 **INCREASE CERTAIN PENALTIES FOR TAKING OF PROTECTED PLANTS**

8 **SECTION 10.(a)** G.S. 14-129 reads as rewritten:

9 **"§ 14-129. Taking, etc., of certain wild plants from land of another.**

10 No person, firm or corporation shall dig up, pull up or take from the land of another or from
11 any public domain, the whole or any part of any Venus flytrap (*Dionaea muscipula*), trailing
12 arbutus, Aaron's Rod (*Thermopsis caroliniana*), Bird-foot Violet (*Viola pedata*), Bloodroot
13 (*Sanguinaria canadensis*), Blue Dogbane (*Amsonia tabernaemontana*), Cardinal-flower
14 (*Lobelia cardinalis*), Columbine (*Aquilegia canadensis*), Dutchman's Breeches (*Dicentra*
15 *cucullaria*), Maidenhair Fern (*Adiantum pedatum*), Walking Fern (*Camptosorus rhizophyllus*),
16 Gentians (*Gentiana*), Ground Cedar, Running Cedar, Hepatica (*Hepatica americana* and
17 *acutiloba*), Jack-in-the-Pulpit (*Arisaema triphyllum*), Lily (*Lilium*), Lupine (*Lupinus*),
18 Monkshood (*Aconitum uncinatum* and *reclinatum*), May Apple (*Podophyllum peltatum*),
19 Orchids (all species), Pitcher Plant (*Sarracenia*), Shooting Star (*Dodecatheon meadia*), Oconee
20 Bells (*Shortia galacifolia*), Solomon's Seal (*Polygonatum*), Trailing Christmas
21 (*Greens-Lycopodium*), Trillium (*Trillium*), Virginia Bluebells (*Mertensia virginica*), and
22 Fringe Tree (*Chionanthus virginicus*), American holly, white pine, red cedar, hemlock or other
23 coniferous trees, or any flowering dogwood, any mountain laurel, any rhododendron, or any
24 ground pine, or any Christmas greens, or any Judas tree, or any leucothea, or any azalea,
25 without having in his possession a permit to dig up, pull up or take such plants, signed by the
26 owner of such land, or by his duly authorized agent. Any person convicted of violating the
27 provisions of this section shall be guilty of a Class 3 misdemeanor only punished by a fine of
28 not less than ~~ten dollars (\$10.00)~~ seventy-five dollars (\$75.00) nor more than ~~fifty dollars~~
29 ~~(\$50.00)~~ one hundred seventy-five dollars (\$175.00) for each ~~offense~~ offense, with each plant
30 taken in violation of this section constituting a separate offense. The Clerk of Court for the
31 jurisdiction in which a conviction occurs under this section involving any species listed in this
32 section that also appears on the North Carolina Protected Plants list created under the authority
33 granted by Article 19B of Chapter 106 of the General Statutes shall report the conviction to the
34 Plant Conservation Board so the Board may consider a civil penalty under the authority of that
35 Article. The provisions of this section shall not apply to the Counties of Cabarrus, Carteret,
36 Catawba, Cherokee, Chowan, Cumberland, Currituck, Dare, Duplin, Edgecombe, Franklin,
37 Gaston, Granville, Hertford, McDowell, Pamlico, Pender, Person, Richmond, Rockingham,
38 Rowan and Swain."

39 **SECTION 10.(b)** This section becomes effective December 1, 2014, and applies to
40 offenses committed on or after that date.

42 **STUDY USE OF CONTAMINATED PROPERTY**

43 **SECTION 11.(a)** The Department of Environment and Natural Resources shall
44 study ways to improve the timeliness of actions necessary to address contaminated properties
45 such that the property is safe for productive use, threats to the environment and public health
46 are minimized to acceptable levels, and the risk of taxpayer funded remediation is reduced. The
47 Department shall specifically consider all of the following:

- 48 (1) The expansion of risk-based remediation of groundwater to all remediation
49 programs under the Department.
- 50 (2) The Resources needed within the Department to oversee remediation,
51 including the potential to expand the use of Department approved private

1 environmental consulting and engineering firms to implement and oversee
2 remedial actions.

3 (3) That rules adopted by the Environmental Management Commission for
4 water quality standards applicable to groundwater be no more stringent than
5 the lower of the federal or State maximum contaminant levels for drinking
6 water in cases where the maximum contaminant levels have been adopted.

7 (4) Liability protection for innocent purchasers of nonresidential property who
8 take actions consistent with the federal Comprehensive Environmental
9 Response, Compensation, and Liability Act for due diligence and due care
10 regarding investigations and contaminants found.

11 (5) Other matters the Department deems appropriate to further the goals of this
12 study.

13 **SECTION 11.(b)** The Department shall report the results of this study, including
14 any recommendations, to the Environmental Review Commission no later than November 1,
15 2014.

16 17 **SCOPE OF LOCAL AUTHORITY FOR ORDINANCES**

18 **SECTION 12.(a)** Section 10.2 of S.L. 2013-413 is repealed.

19 **SECTION 12.(b)** No later than November 1, 2014, and November 1, 2015, the
20 Department of Agriculture and Consumer Services shall report to the Environmental Review
21 Commission on any local government ordinances that impinge on or interfere with any area
22 subject to regulation by the Department.

23 **SECTION 12.(c)** No later than November 1, 2014, and November 1, 2015, the
24 Department of Environment and Natural Resources shall report to the Environmental Review
25 Commission on any local government ordinances that impinge on or interfere with any area
26 subject to regulation by the Department.

27 **SECTION 12.(d)** In developing the reports pursuant to Sections 12(b) and 12(c) of
28 this act, the Department of Environment and Natural Resources and the Department of
29 Agriculture and Consumer Services shall solicit and receive input from the public regarding
30 any local government ordinances that impinge on or interfere with any area subject to
31 regulation by the respective Department.

32 **SECTION 12.(e)** Article 56 of Chapter 106 of the General Statutes is amended by
33 adding a new section to read:

34 **"§ 106-678. Authority to regulate fertilizers.**

35 No county, city, or other political subdivision of the State shall adopt or continue in effect
36 any ordinance, rule, regulation, or resolution regulating the use, sale, distribution, storage,
37 transportation, disposal, formulation, labeling, registration, manufacture, or application of
38 fertilizer. Nothing in this section shall prohibit a county, city, or other political subdivision of
39 the State from exercising its planning and zoning authority under Article 19 of Chapter 160A of
40 the General Statutes or Article 18 of Chapter 153A of the General Statutes, or from exercising
41 its fire prevention or inspection authority. Nothing in this section shall limit the authority of the
42 Department of Environment and Natural Resources or the Environmental Management
43 Commission to enforce water quality standards. Nothing in this section shall prohibit a county,
44 city, or other political subdivision of the State from adopting ordinances regulating fertilizers to
45 protect water quality, provided that the ordinances have been approved by the Environmental
46 Management Commission or the Department of Environment and Natural Resources as part of
47 a local plan or NPDES permit application and do not exceed the State's minimum requirements
48 to protect water quality as established by the Environmental Management Commission under
49 Part 1, Article 21 of Chapter 143 of the General Statutes."

50 51 **FEE ROLLBACK FOR OYSTER PERMITS UNDER PRIVATE DOCKS**

1 **SECTION 14.(a)** Subsections (l) and (m) of G.S. 113-210 are repealed.

2 **SECTION 14.(b)** This section becomes effective July 1, 2014.

3
4 **LOCAL GOVERNMENT LEASES FOR RENEWABLE ENERGY FACILITIES**

5 **SECTION 15.** G.S. 160A-272 reads as rewritten:

6 "**§ 160A-272. Lease or rental of property.**

7 ...

8 (c) The council may approve a lease for the siting and operation of a renewable energy
9 facility, as that term is defined in G.S. 62-133.8(a)(7), for a term up to ~~20-25~~ years without
10 treating the lease as a sale of property and without giving notice by publication of the intended
11 lease. ~~This subsection applies to Catawba, Mecklenburg, and Wake Counties, the Cities of~~
12 ~~Asheville, Raleigh, and Winston-Salem, and the Towns of Apex, Carrboro, Cary, Chapel Hill,~~
13 ~~Fuquay-Varina, Garner, Holly Springs, Knightdale, Morrisville, Rolesville, Wake Forest,~~
14 ~~Wendell, and Zebulon only."~~

15
16 **OPEN BURNING**

17 **SECTION 16.(a)** The definitions set out in G.S. 143-212, G.S. 143-213, and 15A
18 NCAC 02D .1902 (Definitions) apply to this section.

19 **SECTION 16.(b)** 15A NCAC 02D .1903 (Open Burning Without an Air Quality
20 Permit). – Until the effective date of the revised permanent rule that the Commission is
21 required to adopt pursuant to Section 16(d) of this section, the Commission and the Department
22 shall implement 15A NCAC 02D .1903 (Open Burning Without an Air Quality Permit) as
23 provided in Section 16(c) of this section.

24 **SECTION 16.(c)** Implementation. – Notwithstanding Paragraph (b) of 15A NCAC
25 02D .1903 (Open Burning Without an Air Quality Permit), no air quality permit is required for
26 the open burning of leaves, logs, stumps, tree branches, or yard trimmings if the following
27 conditions are met:

- 28 (1) The material burned originates on the premises of private residences and is
29 burned on those premises.
30 (2) There are no public pickup services available.
31 (3) Nonvegetative materials, such as household garbage, lumber, or any other
32 synthetic materials, are not burned.
33 (4) The burning is initiated no earlier than 8:00 A.M. and no additional
34 combustible material is added to the fire between 6:00 P.M. on one day and
35 8:00 A.M. on the following day.
36 (5) The burning does not create a nuisance.
37 (6) Material is not burned when the North Carolina Forest Service has banned
38 burning for that area.

39 The burning of logs or stumps of any size shall not be considered to create a nuisance for
40 purposes of the application of the open burning air quality permitting exception described in
41 this subsection.

42 **SECTION 16.(d)** Additional Rule-Making Authority. – The Commission shall
43 adopt a rule to amend 15A NCAC 02D .1903 (Open Burning Without an Air Quality Permit)
44 consistent with Section 16(c) of this act. Notwithstanding G.S. 150B-19(4), the rule adopted by
45 the Commission pursuant to this section shall be substantively identical to the provisions of
46 Section 16(c) of this act. Rules adopted pursuant to this section are not subject to Part 3 of
47 Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall
48 become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections
49 had been received as provided by G.S. 150B-21.3(b2).

50 **SECTION 16.(e)** Sunset. – Section 16(c) of this act expires on the date that rules
51 adopted pursuant to Section 16(d) of this section become effective.

INLET HAZARD AREAS

SECTION 17.(a) The definitions set out in G.S. 113A-103 apply to this section.

SECTION 17.(b) 15A NCAC 07H .0304 (AECs Within Ocean Hazard Areas). – Until the effective date of the revised permanent rule that the Commission is required to adopt pursuant to Section 17(d) of this act, the Commission and the Department shall implement 15A NCAC 07H .0304 (AECs Within Ocean Hazard Areas) as provided in Section 17(c) of this act.

SECTION 17.(c) Implementation. – Notwithstanding Subparagraph (3) of 15A NCAC 07H .0304 (AECs Within Ocean Hazard Areas), the Commission shall not establish any new and shall repeal any existing inlet hazard area in any location with the following characteristics:

- (1) The location is the former location of an inlet, but the inlet has been closed for at least 15 years.
- (2) Due to shoreline migration, the location no longer includes the current location of the inlet.
- (3) The location includes an inlet providing access to a State Port via a channel maintained by the United States Army Corps of Engineers.

SECTION 17.(d) Additional Rule-Making Authority. – The Commission shall adopt a rule to amend 15A NCAC 07H .0304 (AECs Within Ocean Hazard Areas) consistent with Section 17(c) of this act. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of Section 17(c) of this act. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

SECTION 17.(e) Sunset. – Section 17(c) of this act expires on the date that rules adopted pursuant to Section 17(d) of this act become effective.

SECTION 17.(f) Nothing in this section is intended to prevent the Commission from (i) studying any current inlet hazard area or any other area considered by the Commission for designation as an inlet hazard area, (ii) designating new inlet hazard areas, or (iii) modifying existing inlet hazard areas consistent with Section 17(c) of this act.

HUNTING TRIALS

SECTION 18.(a) The Wildlife Resources Commission shall adopt rules to clarify the requirements in 15A NCAC 10B .0114 addressing which participants in retriever field trials are required to possess a hunting license, including out-of-state participants, judges, and spectators.

SECTION 18.(b) In developing the rules pursuant to Section 18(a) of this act, the Wildlife Resources Commission shall hold public hearings and consult with field trial groups active in the State.

EXPEDITED IBT PROCESS FOR CERTAIN RESERVOIRS

SECTION 19. G.S. 143-215.22L(w) reads as rewritten:

"(w) Requirements for Coastal ~~Counties~~ Counties and Reservoirs Constructed by the United States Army Corps of Engineers. – A petition for a certificate (i) to transfer surface water to supplement ground water supplies in the 15 counties designated as the Central Capacity Use Area under 15A NCAC 2E.0501, ~~or~~ (ii) to transfer surface water withdrawn from the mainstem of a river to provide service to one of the coastal area counties designated pursuant to G.S. 113A-103, or (iii) to withdraw or transfer water stored in any multipurpose reservoir constructed by the United States Army Corps of Engineers and partially located in a state adjacent to North Carolina, provided the United States Army Corps of Engineers approved

1 the withdrawal or transfer on or before July 1, 2014, shall be considered and a determination
2 made according to the following procedures:

- 3 (1) The applicant shall file a notice of intent that includes a nontechnical
4 description of the applicant's request and identification of the proposed water
5 source.
- 6 (2) The applicant shall prepare an environmental document pursuant to
7 subsection (d) of this section, except that an environmental impact statement
8 shall not be required unless it would otherwise be required by Article 1 of
9 Chapter 113A of the General Statutes.
- 10 (3) Upon determining that the documentation submitted by the applicant is
11 adequate to satisfy the requirements of this subsection, the Department shall
12 publish a notice of the petition in the North Carolina Register and shall hold
13 a public hearing at a location convenient to both the source and receiving
14 river basins. The Department shall provide written notice of the petition and
15 the public hearing in the Environmental Bulletin, a newspaper of general
16 circulation in the source river basin, a newspaper of general circulation in
17 the receiving river basin, and as provided in subdivision (3) of subsection (c)
18 of this section. The applicant who petitions the Commission for a certificate
19 under this subdivision shall pay the costs associated with the notice and
20 public hearing.
- 21 (4) The Department shall accept comments on the petition for a minimum of 30
22 days following the public hearing.
- 23 (5) The Commission or the Department may require the applicant to provide any
24 additional information or documentation it deems reasonably necessary in
25 order to make a final determination.
- 26 (6) The Commission shall make a final determination whether to grant the
27 certificate based on the factors set out in subsection (k) of this section,
28 information provided by the applicant, and any other information the
29 Commission deems relevant. The Commission shall state in writing its
30 findings of fact and conclusions of law with regard to each factor.
- 31 (7) The Commission shall grant the certificate if it finds that the applicant has
32 established by a preponderance of the evidence that the petition satisfies the
33 requirements of subsection (m) of this section. The Commission may grant
34 the certificate in whole or in part, or deny the request, and may impose such
35 limitations and conditions on the certificate as it deems necessary and
36 relevant."
37

38 ELIMINATE OUTDATED AIR QUALITY REPORTING REQUIREMENTS

39 SECTION 20.(a) G.S. 143-215.3A reads as rewritten:

40 "**§ 143-215.3A. Water and Air Quality Account; use of application and permit fees; Title**
41 **V Account; I & M Air Pollution Control Account; reports.**

42 ...

43 (c) The Department shall report to the Environmental Review Commission and the
44 Fiscal Research Division on the cost of the State's environmental permitting programs
45 contained within the Department on or before 1 November of each year. ~~In addition, the~~
46 ~~Department shall report to the Environmental Review Commission and the Fiscal Research~~
47 ~~Division on the cost of the Title V Program on or before 1 November of each year. The reports~~
48 report shall include, but are-is not limited to, fees set and established under this Article, fees
49 collected under this Article, revenues received from other sources for environmental permitting
50 and compliance programs, changes made in the fee schedule since the last report, anticipated

1 revenues from all other sources, interest earned and any other information requested by the
2 General Assembly."

3 **SECTION 20.(b)** The following sections of S.L. 2002-4 are repealed:

4 (1) Section 10.

5 (2) Section 11, as amended by Section 12 of S.L. 2006-79 and S.L. 2010-142.

6 (3) Section 12.

7 (4) Section 13.

8 **SECTION 20.(c)** G.S. 143-215.108(g) is repealed.

9
10 **CLARIFYING CHANGES TO STATUTES PERTAINING TO THE MANAGEMENT**
11 **OF VENOMOUS SNAKES AND OTHER REPTILES**

12 **SECTION 21.** G.S. 114-419(b) reads as rewritten:

13 "**§ 14-419. Investigation of suspected violations; seizure and examination of reptiles;**
14 **disposition of reptiles.**

15 ...

16 (b) If the Museum or the Zoological Park or their designated representatives find that a
17 seized reptile is a venomous reptile, large constricting snake, or crocodylian regulated under this
18 Article, the Museum or the Zoological Park or their designated representative shall determine
19 final disposition of the reptile in a manner consistent with the safety of the public, which in the
20 case of a venomous reptile for which antivenin approved by the United States Food and Drug
21 Administration is not readily available, ~~may include euthanasia.~~ shall be euthanized unless the
22 species is protected under the federal Endangered Species Act of 1973."

23
24 **REFORM ON-SITE WASTEWATER REGULATION**

25 **SECTION 22.(a)** G.S. 130A-334 reads as rewritten:

26 "**§ 130A-334. Definitions.**

27 The following definitions shall apply throughout this Article:

28 ...

29 (1b) "Ground absorption system" means a system of tanks, treatment units,
30 nitrification fields, and appurtenances for wastewater collection, treatment,
31 and subsurface disposal.

32 ...

33 (7a) "Plat" means a property survey prepared by a registered land surveyor,
34 drawn to a scale of one inch equals no more than 60 feet, that includes: the
35 specific location of the proposed facility and appurtenances, the site for the
36 proposed wastewater system, and the location of water supplies and surface
37 waters. "Plat" also means, for subdivision lots approved by the local
38 planning authority ~~and recorded with the county register of deeds,~~ if a local
39 planning authority exists at the time of application for a permit under this
40 Article, a copy of the ~~recorded~~ subdivision plat that has been recorded with
41 the county register of deeds and is accompanied by a site plan that is drawn
42 to scale.

43 ...

44 (15) "Wastewater system" means a system of wastewater collection, treatment,
45 and disposal in single or multiple components, including a ground
46 absorption system, privy, septic tank system, public or community
47 wastewater system, wastewater reuse or recycle system, mechanical or
48 biological wastewater treatment system, any other similar system, and any
49 chemical toilet used only for human waste. A wastewater system located on
50 multiple adjoining lots or tracts of land under common ownership or control

1 shall be considered a single system for purposes of permitting under this
2 Article."

3 **SECTION 22.(b)** G.S. 130A-335(f1) reads as rewritten:

4 "(f1) A preconstruction conference with the owner or developer, or an agent of the owner
5 or developer, and a representative of the local health department shall be required for any
6 authorization for wastewater system construction issued with an improvement permit under
7 G.S. 130-336 when the authorization is greater than five years old. Following the conference,
8 the local health department shall ~~issue a revised authorization~~ advise the owner or developer of
9 any rule changes for wastewater system construction ~~that includes incorporating current~~
10 technology that can reasonably be expected to improve the performance of the system. The
11 local health department shall issue a revised authorization for wastewater system construction
12 incorporating the rule changes upon the written request of the owner or developer."

13 **SECTION 22.(c)** G.S. 130A-336 reads as rewritten:

14 "**§ 130A-336. Improvement permit and authorization for wastewater system construction**
15 **required.**

16 ...

17 (b) The local health department shall issue an authorization for wastewater system
18 construction authorizing work to proceed and the installation or repair of a wastewater system
19 when it has determined after a field investigation that the system can be installed and operated
20 in compliance with this Article and rules adopted pursuant to this Article. This authorization for
21 wastewater system construction shall be valid for a period equal to the period of validity of the
22 improvement ~~permit, not to exceed five years,~~ permit and may be issued at the same time the
23 improvement permit is issued. No person shall commence or assist in the installation,
24 construction, or repair of a wastewater system unless an improvement permit and an
25 authorization for wastewater system construction have been obtained from the Department or
26 the local health department. No improvement permit or authorization for wastewater system
27 construction shall be required for maintenance of a wastewater system. The Department and the
28 local health department may impose conditions on the issuance of an improvement permit and
29 an authorization for wastewater system construction.

30 (c) Unless the Commission otherwise provides by rule, plans, and specifications for all
31 wastewater systems designed for the collection, treatment, and disposal of industrial process
32 wastewater shall be reviewed and approved by the Department prior to the issuance of an
33 authorization for wastewater system construction by the local health department.

34 (d) If a local health department repeatedly fails to issue or deny improvement permits
35 for conventional septic tank systems within 60 days of receiving completed applications for the
36 permits, then the Department of Environment and Natural Resources may withhold public
37 health funding from that local health department."
38

39 **REPEAL WASTE MANAGEMENT BOARD RULES**

40 **SECTION 23.(a)** The General Assembly finds that the statutory authority for the
41 Governor's Waste Management Board was repealed by S.L. 1993-501 and, therefore,
42 regulations previously promulgated by that Board are no longer enforceable or necessary.

43 **SECTION 23.(b)** The Secretary of Environment and Natural Resources shall
44 repeal 15A NCAC Chapter 14 (Governor's Waste Management Board) on or before December
45 1, 2014. Until the effective date of the repeal of the rule required pursuant to this section, the
46 Secretary, the Department of Environment and Natural Resources, the Environmental
47 Management Commission, or any other political subdivision of the State shall not implement or
48 enforce 15A NCAC Chapter 14 (Governor's Waste Management Board).

49 **SECTION 24.** G.S. 143-64.12 reads as rewritten:

50 "**§ 143-64.12. Authority and duties of the Department; State agencies and State**
51 **institutions of higher learning.**

1 (a) The Department of Environment and Natural Resources through the State Energy
 2 Office shall develop a comprehensive program to manage energy, water, and other utility use
 3 for State agencies and State institutions of higher learning and shall update this program
 4 annually. Each State agency and State institution of higher learning shall develop and
 5 implement a management plan that is consistent with the State's comprehensive program under
 6 this subsection to manage energy, water, and other utility use, and that addresses any findings
 7 or recommendations resulting from the energy audit required by subsection (b1) of this section.
 8 The energy consumption per gross square foot for all State buildings in total shall be reduced
 9 by twenty percent (20%) by 2010 and thirty percent (30%) by 2015 based on energy
 10 consumption for the 2002-2003 fiscal year. Each State agency and State institution of higher
 11 learning shall update its management plan ~~annually~~ biennially and include strategies for
 12 supporting the energy consumption reduction requirements under this subsection. Each
 13 community college shall submit to the State Energy Office ~~an annual~~ a biennial written report of
 14 utility consumption and costs. Management plans submitted ~~annually~~ biennially by State
 15 institutions of higher learning shall include all of the following:

- 16 (1) Estimates of all costs associated with implementing energy conservation
 17 measures, including pre-installation and post-installation costs.
- 18 (2) The cost of analyzing the projected energy savings.
- 19 (3) Design costs, engineering costs, pre-installation costs, post-installation costs,
 20 debt service, and any costs for converting to an alternative energy source.
- 21 (4) An analysis that identifies projected annual energy savings and estimated
 22 payback periods.

23 ...

24 (j) The State Energy Office shall submit a report by December 1 of ~~each~~ every
 25 odd-numbered year to the Joint Legislative ~~Commission on Governmental Operations~~ Energy
 26 Policy Commission describing the comprehensive program to manage energy, water, and other
 27 utility use for State agencies and State institutions of higher learning required by subsection (a)
 28 of this section. The report shall also contain the following:

- 29 (1) A comprehensive overview of how State agencies and State institutions of
 30 higher learning are managing energy, water, and other utility use and
 31 achieving efficiency gains.
- 32 (2) Any new measures that could be taken by State agencies and State
 33 institutions of higher learning to achieve greater efficiency gains, including
 34 any changes in general law that might be needed.
- 35 (3) A summary of the State agency and State institutions of higher learning
 36 management plans required by subsection (a) of this ~~section and the energy~~
 37 ~~audits required by subsection (b1) of this section.~~
- 38 (4) A list of the State agencies and State institutions of higher learning that did
 39 and did not submit management plans required by subsection (a) of this
 40 ~~section and a list of the State agencies and State institutions of higher~~
 41 ~~learning that received an energy audit.~~ section.
- 42 (5) Any recommendations on how management plans can be better managed
 43 and implemented."

44 45 WELL CONTRACTOR LICENSING CHANGES

46 **SECTION 25.(a)** G.S. 87-43.1 is amended by adding the following new
 47 subdivision to read:

48 "§ 87-43.1. Exceptions.

49 The provisions of this Article shall not apply:

50 ...

1 (10) To the installation, construction, maintenance, or repair of electrical wiring,
2 devices, appliances, or equipment by a person certified as a well contractor
3 under Article 7A of this Chapter when running electrical wires from the well
4 pump to the pressure switch."

5 **SECTION 25.(b)** G.S. 87-98.6 reads as rewritten:

6 **"§ 87-98.6. Well contractor qualifications and examination.**

7 (a) The Commission, with the advice and assistance of the Secretary, shall establish
8 minimum requirements of education, experience, and knowledge for each type of certification
9 for well contractors and shall establish procedures for receiving applications for certification,
10 conducting examinations, and making investigations of applicants as may be necessary and
11 appropriate so that prompt and fair consideration will be given to each applicant.

12 (b) The Commission, with the advice and assistance of the Secretary, shall establish
13 minimum requirements of education, experience, and knowledge for each type of certification
14 for well contractors for the installation, construction, maintenance, and repair of electrical
15 wiring devices, appliances, and equipment related to the construction, operation, and repair of
16 wells. Requirements developed pursuant to this subsection shall apply only to the initial
17 certification of an applicant and shall not be required as part of continuing education or as a
18 condition of certification renewal."

19 **SECTION 25.(c)** This section is effective when it becomes law. The requirements
20 of subsection (b) of G.S. 87-98.6, as enacted by Section 25(b) of this act, apply to applicants
21 applying for certification on or after the date this section becomes effective.

22 23 **STANDARDIZE LOCAL WELL PROGRAMS**

24 **SECTION 26.(a)** G.S. 87-97 reads as rewritten:

25 **"§ 87-97. Permitting, inspection, and testing of private drinking water wells.**

26 (a) Mandatory Local Well Programs. – Each county, through the local health
27 department that serves the county, shall implement a private drinking water well permitting,
28 inspection, and testing program. Local health departments shall administer the program and
29 enforce the minimum well construction, permitting, inspection, repair, and testing requirements
30 set out in this Article and rules adopted pursuant to this Article. No person shall unduly delay
31 or refuse to permit a well that can be constructed or repaired and operated in compliance with
32 the requirements set out in this Article and rules adopted pursuant to this Article.

33 (a1) Use of Standard Forms. – Local well programs shall use the standard forms created
34 by the Department for all required submittals and shall not create their own forms unless the
35 local program submits a petition for rule making to the Environmental Management
36 Commission, and the Commission by rule finds that conditions or circumstances unique to the
37 area served by the local well program constitute a threat to public health that will be mitigated
38 by use of a local form different from the form used by the Department.

39 ...
40 (k) Registry of Permits and Test Results. – Each local health department shall maintain
41 a registry of all private drinking water wells for which a construction permit or repair permit is
42 issued. ~~issued~~ that is searchable by address or addresses served by the well. The registry shall
43 specify the physical location of each private drinking water well and shall include the results of
44 all tests of water from each well. The local health department shall retain a record of the results
45 of all tests of water from a private drinking water well until the well is properly closed in
46 accordance with the requirements of this Article and rules adopted pursuant to this Article.

47 "

48 **SECTION 26.(b)** Notwithstanding 15A NCAC 02C .0107(j)(2), neither the
49 Department of Environment and Natural Resources nor any local well program shall require
50 that well contractor identification plates include the well construction permit numbers. Local

1 well programs may install a plate with the well construction permit number or any other
2 information deemed relevant on a well at the expense of the local program.

3 **SECTION 26.(c)** The Environmental Management Commission shall adopt a rule
4 to amend 15A NCAC 02C .0107(j)(2) consistent with Section 26(b) of this act.

5 **SECTION 26.(d)** Section 26(b) of this act expires on the date that the rule adopted
6 pursuant to Section 26(c) of this act becomes effective.

7 **SECTION 26.(e)** If the well location marked on the map submitted with an
8 application to a local well program is also marked with a stake or similar marker on the
9 property, then the local well program may not require the contractor to be on-site during the
10 on-site predrill inspection, as long as the contractor is available by telephone to answer
11 questions.

12 **SENATOR JEAN PRESTON MARINE SHELLFISH SANCTUARY**

13 **SECTION 27.(a)** It is the intent of the General Assembly to establish a marine
14 shellfish sanctuary in the Pamlico Sound to be named in honor of former Senator Jean Preston,
15 to be called the "Senator Jean Preston Marine Shellfish Sanctuary."

16 **SECTION 27.(b)** The Division of Marine Fisheries of the Department of
17 Environment and Natural Resources shall designate an area of appropriate acreage within the
18 Pamlico Sound as a recommendation to the Environmental Review Commission for
19 establishment of the "Senator Jean Preston Marine Shellfish Sanctuary" and create a plan for
20 managing the sanctuary that includes the following components:

- 21 (1) Location and delineation of the sanctuary. – The plan should include a
22 location for the sanctuary that minimizes the impact on commercial trawling.
23 In addition, the sanctuary should be gridded into areas leased to private
24 parties for restoration and harvest and areas operated and maintained by the
25 State for restoration that are not open for harvest. The leased and unleased
26 areas should be arranged in a pattern where leased squares are surrounded on
27 four sides by unleased squares.
- 28 (2) Administration. – The plan should include the prices to be charged for the
29 leased portions of the sanctuary, including an administration fee to be
30 retained by the Division to support the leasing and monitoring program. The
31 plan shall also provide that the balance of lease payments collected by the
32 Division be transferred to the General Fund with a recommendation that
33 some or all of the proceeds be used for the support of the State's special
34 education programs in memory of Senator Jean Preston.
- 35 (3) Funding. – The plan should include a request for appropriations sufficient to
36 provide funds for the construction of appropriate bottom habitat and shellfish
37 seeding and for Division staff necessary to conduct oyster restoration and
38 monitoring activities. The plan should provide that, whenever possible,
39 construction and shellfish seeding be carried out by contract with private
40 entities.
- 41 (4) Commercial fisherman relief. – To promote the diversification of
42 commercial fishing opportunities, the plan should include a program to
43 award free or discounted leases under this section to commercial fishermen
44 who (i) have held one or more commercial fishing licenses continually for a
45 period of 10 or more years and (ii) receive at least fifty percent (50%) of
46 their income from commercial fishing with those licenses.
- 47 (5) Recommendations. – The plan should include recommendations for statutory
48 or regulatory changes needed to expedite the expansion of shellfish
49 restoration and harvesting in order to improve water quality, restore
50 ecological habitats, and expand the coastal economy.
- 51

1 **SECTION 27.(c)** No later than December 1, 2014, and quarterly thereafter until
2 submission of a final plan to the Environmental Review Commission, the Department of
3 Environment and Natural Resources shall report to the Environmental Review Commission
4 regarding its implementation of this section and its recommended plan.
5

6 **CLARIFY GRAVEL UNDER STORMWATER LAWS**

7 **SECTION 28.(a)** G.S. 143-214.7(b2) reads as rewritten:

8 "(b2) For purposes of implementing stormwater programs, "built-upon area" means
9 impervious surface and partially impervious surface to the extent that the partially impervious
10 surface does not allow water to infiltrate through the surface and into the subsoil. "Built-upon
11 area" does not include a ~~wooden-slatted deck, deck or the water area of a swimming pool, or~~
12 ~~gravel pool.~~"

13 **SECTION 28.(b)** The Environmental Management Commission shall amend its
14 rules to be consistent with the definition of "built-upon area" set out in subsection (b2) of
15 G.S. 143-214.7, as amended by Section 28(a) of this act.

16 **SECTION 28.(c)** Unless specifically authorized by the General Assembly, neither
17 the Environmental Management Commission nor the Department of Environment and Natural
18 Resources have the authority to define the term "gravel" for purposes of implementing
19 stormwater programs. Any rule adopted by the Environmental Management Commission or the
20 Department of Environment and Natural Resources that defines the term "gravel" for purposes
21 of implementing stormwater programs is not effective and shall not become effective.

22 **SECTION 28.(d)** Of funds available to the Department of Environment and
23 Natural Resources for the 2013-2015 biennium, the Department shall use up to the sum of one
24 hundred ten thousand dollars (\$110,000) to contract with the Department of Biological and
25 Agricultural Engineering at North Carolina State University to conduct the study required by
26 this section. The Department of Biological and Agricultural Engineering at North Carolina
27 State University shall conduct a study to determine the extent to which different aggregate
28 surfaces are pervious, impervious, or partially pervious. The study shall include variables such
29 as different types of aggregate, different types of underlying soil, different levels of
30 compaction, different types of soil preparation and aggregate installation, different depths of
31 aggregate, and any other variables that may significantly affect whether an aggregate surface is
32 pervious, impervious, or partially pervious. The Department of Biological and Agricultural
33 Engineering at North Carolina State University shall submit an interim report on the results of
34 the study to the Department of Environment and Natural Resources and the Environmental
35 Review Commission no later than September 1, 2014. The Department of Biological and
36 Agricultural Engineering at North Carolina State University shall submit a final report on the
37 results of the study to the Department of Environment and Natural Resources and the
38 Environmental Review Commission no later than January 1, 2015.

39 **SECTION 28.(e)** This act is effective when it becomes law. Subsection (b2) of
40 G.S. 143-214.7, as amended by Section 28(a) of this act, applies to projects for which permit
41 applications are received on or after that date.
42

43 **UNITED STATES POSTAL SERVICE CLUSTER BOX UNITS/NO STORMWATER** 44 **PERMIT MODIFICATION REQUIRED**

45 **SECTION 29.(a)** Notwithstanding the requirements of Article 21 of Chapter 143
46 of the General Statutes and rules adopted pursuant to that Article, the addition of a cluster box
47 unit to a single-family or duplex development permitted by a local government shall not require
48 a modification to any stormwater permit for that development. This section shall only apply to
49 single-family or duplex developments in which individual curbside mailboxes are replaced with
50 cluster box units whereupon the associated built-upon area supporting the cluster box units

1 shall be considered incidental and shall not be required in the calculation of built-upon area for
2 the development for stormwater permitting purposes.

3 **SECTION 29.(b)** Section 29(a) of this act becomes effective when this act
4 becomes law and expires on December 31, 2015, or when regulations on cluster box design and
5 placement by the United States Postal Service become effective and those regulations are
6 adopted by local governments, whichever is earlier.

7 8 **MODIFICATION OF APPROVED WASTEWATER SYSTEMS**

9 **SECTION 30.(a)** The definitions set out in G.S. 130A-343 shall apply to this
10 section.

11 **SECTION 30.(b)** 15A NCAC 18A .1969(j) (Modification of Approved Systems).
12 – Until the effective date of the revised permanent rule that the Commission is required to
13 adopt pursuant to Section 30(d) of this act, the Commission and the Department shall
14 implement 15A NCAC 18A .1969(j) (Modification of Approved Systems) as provided in
15 Section 30(c) of this act.

16 **SECTION 30.(c)** Implementation. – Notwithstanding 15A NCAC 18A .1969(j)
17 (Modification of Approved Systems), the rule shall be implemented so as to not require a
18 survey or audit of installed modified accepted systems in order to confirm the satisfactory
19 performance of such systems.

20 **SECTION 30.(d)** Additional Rulemaking Authority. – The Commission for Public
21 Health shall adopt a rule to amend 15A NCAC 18A .1969(j) (Modification of Approved
22 Systems) consistent with Section 30(c) of this act. Notwithstanding G.S. 150B-19(4), the rule
23 adopted by the Commission pursuant to this section shall be substantively identical to the
24 provisions of Section 30(c) of this act. Rules adopted pursuant to this section are not subject to
25 Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this
26 section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written
27 objections had been received as provided by G.S. 150B-21.3(b2).

28 **SECTION 30.(e)** Sunset. – Section 30(c) of this act expires on the date that the rule
29 adopted pursuant to Section 30(d) of this act becomes effective.

30 31 **CAPSTONE PERMITTING**

32 **SECTION 31.** G.S. 150B-23 is amended by adding a new subsection to read:

33 "**§ 150B-23. Commencement; assignment of administrative law judge; hearing required;**
34 **notice; intervention.**

35 ...

36 (g) Where multiple licenses are required from an agency for a single activity, the
37 Secretary or chief administrative officer of the agency may issue a written determination that
38 the administrative decision reviewable under Article 3 of this Chapter occurs on the date the
39 last license for the activity is issued, denied, or otherwise disposed of. The written
40 determination of the administrative decision is not reviewable under this Article. Any licenses
41 issued for the activity prior to the date of the last license identified in the written determination
42 are not reviewable under this Article until the last license for the activity is issued, denied, or
43 otherwise disposed of. A contested case challenging the last license decision for the activity
44 may include challenges to agency decisions on any of the previous licenses required for the
45 activity."

46 47 **CHANGES TO THE RESIDENTIAL PROPERTY DISCLOSURE ACT**

48 **SECTION 32.(a)** Chapter 47E of the General Statutes reads as rewritten:

49 **"Chapter 47E.**

50 **"Residential Property Disclosure Act.**

51 ...

"§ 47E-2. Exemptions.

The following transfers are exempt from the provisions of this Chapter:

- (1) Transfers pursuant to court order, including transfers ordered by a court in administration of an estate, transfers pursuant to a writ of execution, transfers by foreclosure sale, transfers by a trustee in bankruptcy, transfers by eminent domain, and transfers resulting from a decree for specific performance.
- (2) Transfers to a beneficiary from the grantor or his successor in interest in a deed of trust, or to a mortgagee from the mortgagor or his successor in interest in a mortgage, if the indebtedness is in default; transfers by a trustee under a deed of trust or a mortgagee under a mortgage, if the indebtedness is in default; transfers by a trustee under a deed of trust or a mortgagee under a mortgage pursuant to a foreclosure sale, or transfers by a beneficiary under a deed of trust, who has acquired the real property at a sale conducted pursuant to a foreclosure sale under a deed of trust.
- (3) Transfers by a fiduciary in the course of the administration of a decedent's estate, guardianship, conservatorship, or trust.
- (4) Transfers from one or more co-owners solely to one or more other co-owners.
- (5) Transfers made solely to a spouse or a person or persons in the lineal line of consanguinity of one or more transferors.
- (6) Transfers between spouses resulting from a decree of divorce or a distribution pursuant to Chapter 50 of the General Statutes or comparable provision of another state.
- (7) Transfers made by virtue of the record owner's failure to pay any federal, State, or local taxes.
- (8) Transfers to or from the State or any political subdivision of the State.

(b) The following transfers are exempt from the provisions of 47E-4, but not from the requirements of 47E-4.1:

- ~~(9)~~(1) Transfers involving the first sale of a dwelling never inhabited.
- ~~(10)~~(2) Lease with option to purchase contracts where the lessee occupies or intends to occupy the dwelling.
- ~~(11)~~(3) Transfers between parties when both parties agree not to complete a residential property disclosure statement or an owners' association and mandatory covenants disclosure statement.

...

"§ 47E-4. Required disclosures.

...

~~(b2) With regard to transfers described in G.S. 47E-1, the owner of the real property shall include in any real estate contract, an oil and gas rights mandatory disclosure as provided in this subsection:~~

- ~~(1) Transfers of residential property set forth in G.S. 47E-2 are excluded from this requirement, except that the exemptions provided under subdivisions (9) and (11) of G.S. 47E-2 specifically are not excluded from this requirement.~~
- ~~(2) The disclosure shall be conspicuous, shall be in boldface type, and shall be as follows:~~

~~**OIL AND GAS RIGHTS DISCLOSURE**~~

~~Oil and gas rights can be severed from the title to real property by conveyance (deed) of the oil and gas rights from the owner or by reservation of the oil and gas rights by the owner. If oil and gas rights are or will be severed from the property, the owner of those rights may have the perpetual~~

~~right to drill, mine, explore, and remove any of the subsurface oil or gas resources on or from the property either directly from the surface of the property or from a nearby location. With regard to the severance of oil and gas rights, Seller makes the following disclosures:~~

		Yes	No	No Representation
6	<u> </u>	==	==	==
7	Buyer Initials			
8		Yes	No	
9	<u> </u>	==	==	
10	Buyer Initials			
11		Yes	No	
12	<u> </u>	==	==	
13	Buyer Initials			

(c) The rights of the parties to a real estate contract as to conditions of the property of which the owner had no actual knowledge are not affected by this Article unless the residential disclosure statement or the owners' association and mandatory covenants disclosure statement, as applicable, states that the owner makes no representations as to those conditions. If the statement states that an owner makes no representations as to the conditions of the property, then the owner has no duty to disclose those conditions, whether or not the owner should have known of them.

"§ 47E-4.1. Required mineral and oil and gas rights disclosures.

(a) With regard to transfers described in G.S. 47E-1 and G.S. 47E-2(b), the owner of the real property shall furnish to a purchaser a mineral and oil and gas rights mandatory disclosure statement. The disclosure shall be conspicuous, shall be in boldface type, and shall be as follows:

MINERAL AND OIL AND GAS RIGHTS DISCLOSURE

Mineral rights and/or oil and gas rights can be severed from the title to real property by conveyance (deed) of the mineral rights and/or oil and gas rights from the owner or by reservation of the mineral rights and/or oil and gas rights by the owner. If mineral rights and/or oil and gas rights are or will be severed from the property, the owner of those rights may have the perpetual right to drill, mine, explore, and remove any of the subsurface mineral and/or oil or gas resources on or from the property either directly from the surface of the property or from a nearby location. With regard to the severance of mineral rights and/or oil and gas rights, Seller makes the following disclosures:

		<u>Yes</u>	<u>No</u>	<u>No Representation</u>
40	<u> </u>	<u>—</u>	<u>—</u>	<u>—</u>
41	Buyer Initials			
42		<u>Yes</u>	<u>No</u>	
43	<u> </u>	<u>—</u>	<u>—</u>	
44	Buyer Initials			
45		<u>Yes</u>	<u>No</u>	
46	<u> </u>	<u>—</u>	<u>—</u>	
47	Buyer Initials			
48		<u>Yes</u>	<u>No</u>	<u>No Representation</u>
49	<u> </u>	<u>—</u>	<u>—</u>	<u>—</u>
50	Buyer Initials			

1 necessary by the event or circumstance shall result in such remedies for the buyer as are
2 provided for by law in the event the sale agreement requires the property to be in substantially
3 the same condition at closing as on the date of the offer to purchase, reasonable wear and tear
4 excepted.

5 **"§ 47E-8. Agent's duty.**

6 A real estate broker ~~or salesman~~ acting as an agent in a residential real estate transaction has
7 the duty to inform each of the clients of the real estate broker ~~or salesman~~ of the client's rights
8 and obligations under this Chapter. Provided the owner's real estate broker ~~or salesman~~ has
9 performed this duty, the broker or salesman shall not be responsible for the owner's willful
10 refusal to provide a prospective purchaser with a residential property disclosure ~~statement~~
11 statement, the mineral and oil and gas rights mandatory disclosure statement, or an owners'
12 association and mandatory covenants disclosure statement. Nothing in this Chapter shall be
13 construed to conflict with, or alter, the ~~broker or salesman's~~ broker's duties under Chapter 93A
14 of the General Statutes.

15"

16 **SECTION 32.(b)** This section is effective when it becomes law and applies to
17 contracts executed on or after that date.

18 **SECTION 33.** Section 1 of S.L. 2013-82 reads as rewritten:

19 **"SECTION 1.** The Department of Environment and Natural Resources shall develop
20 Minimum Design Criteria for permits issued by the stormwater runoff permitting programs
21 authorized by G.S. 143-214.7. The Minimum Design Criteria shall include all requirements for
22 siting, site preparation, design and construction, and post-construction monitoring and
23 evaluation necessary for the Department to issue stormwater permits that comply with State
24 water quality standards adopted pursuant to G.S. 143-214.1, 143-214.7, and 143-215.3(a)(1). In
25 developing and updating the Minimum Design Criteria, the Department shall consult with a
26 technical working group that consists of industry experts, engineers, environmental consultants,
27 relevant faculty from The University of North Carolina, and other interested stakeholders. The
28 Department shall submit interim reports on its progress in developing the Minimum Design
29 Criteria to the Environmental Review Commission no later than September 1, 2014, and
30 December 1, 2014. The Department shall submit a final report, including its recommendations
31 to the Environmental Review Commission no later than September 1, 2014-February 1, 2015."
32

33 **SEVERABILITY CLAUSE AND EFFECTIVE DATE**

34 **SECTION 34.** If any section or provision of this act is declared unconstitutional or
35 invalid by the courts, it does not affect the validity of this act as a whole or any part other than
36 the part declared to be unconstitutional or invalid.

37 **SECTION 35.** Except as otherwise provided, this act is effective when it becomes
38 law.